

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOTKIER, INC.,

Plaintiff,

- against -

COSTCO WHOLESALE CORPORATION, *et al.*,

Defendants.

ECF CASE

07 Civ. 11043 (RJS)

CASE MANAGEMENT PLAN AND SCHEDULING ORDER

At the conference before the Court held on April 11, 2008, this Case Management Plan and Scheduling Order was adopted in accordance with Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

1. The parties do not consent to disposition of this case by a Magistrate Judge pursuant to 28 U.S.C. § 636(c).
2. This case is to be Jury tried.
3. No additional parties may be joined except with leave of the Court.
4. Amended pleadings may not be filed except with leave of the Court.
5. Initial disclosures pursuant to Rule 26(a)(1) will be completed not later than April 25, 2008.
6. All discovery is to be completed no later than August 8, 2008.
7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties meet the fact discovery completion date in ¶ 6 above:
 - a. Initial requests for production of documents to be served by May 2, 2008.

- b. Initial interrogatories to be served by May 2, 2008.
 - c. Depositions to be completed by August 8, 2008.
 - i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
 - ii. There is no priority in deposition by reason of a party's status as plaintiff or defendant.
 - iii. Unless the parties agree or the Court so orders, non-party depositions shall follow initial party depositions.
 - d. Requests to Admit to be served no later than July 8, 2008.
8. All expert disclosures, including reports, production of underlying documents and depositions are to be completed by:
- a. Expert(s) of Plaintiff(s) June 10, 2008.
 - b. Expert(s) of Defendant(s) July 15, 2008.
 - c. Expert(s) rebuttal July 31, 2008.
9. All discovery is to be completed no later than August 8, 2008.
10. The Court may schedule a post-discovery status conference (see ¶ 16) within three (3) weeks of the close of all discovery on August 8, 2008.
11. Pre-motion letters regarding dispositive motions, if any, are to be submitted no later than two (2) weeks prior to the post-discovery status conference date listed in ¶ 16. In accord with this Court's Individual Rule 2.A, response letters thereto are to be submitted within five (5) business days from service of the initial pre-motion letter. *PM Letters by 8/18/08; Responses by 8/15/08*
12. All counsel must meet for at least one (1) hour to discuss settlement not later than two (2) weeks following the close of fact discovery on August 8, 2008. Accordingly, Counsel for the parties have discussed holding a settlement conference before a Magistrate Judge or the Southern District's Mediation Program and request referral to the Southern District's Mediation Program.

The matter shall be referred to the Southern District Mediation Program² for immediate mediation.


13. The parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practice Rule 3 and Rule 26(a)(3). Proposed *voir dire*, jury instructions, and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on jury instructions and verdict form in an effort to make an agreed upon submission.
 14. Parties have conferred and their present best estimate of the length of trial is less than four (4) days.
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TO BE COMPLETED BY THE COURT:

15. [Other directions to the parties:]
16. The post-discovery status conference is scheduled for Sept. 3, 2008
at 10:00 am.

SO ORDERED.

DATED: New York, New York
April 11, 2008



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE